



1 Under Rule 11(c)(1) of the Federal Rules of Criminal Procedure, Defendant  
2 will plead guilty to Count 1 of the Indictment, which charges him with one count of Felon in  
3 Possession of Firearms in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), a Class C felony.  
4 Defendant will also plead guilty to Count 2 of the Indictment, which charges him with one  
5 count of Possession of Stolen Firearms in violation of 18 U.S.C. §§ 922(j) and 924(a)(2), a  
6 Class C felony. Defendant agrees that the time between the filing of this agreement and the  
7 date Defendant is sentenced following his change of plea is excludable under the Speedy Trial  
8 Act, 18 U.S.C. § 3161.

9 2. In exchange for Defendant's guilty plea:

10 a. Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal  
11 Procedure, the government will recommend that the Court impose a term of imprisonment at  
12 the low end of the applicable range of sentences for the offense level, as determined by the  
13 Court under the United States Sentencing Guidelines ("U.S.S.G.," the "guidelines," or the  
14 "sentencing guidelines"). This term shall not include probation or a split-sentence, even if  
15 permitted under the guidelines.

16 b. Pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal  
17 Procedure, the government agrees to bring no further charges against Defendant arising from  
18 information learned during the investigation that brought about this plea agreement, if any.

19 c. Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal  
20 Procedure, the government will recommend a two-level reduction in the offense level for  
21 acceptance of responsibility under U.S.S.G. § 3E1.1(a), provided Defendant continues to  
22 demonstrate such acceptance through sentencing. As of the date of this agreement, Defendant  
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1 has timely notified authorities of his intention to enter a plea of guilty. If, and only if,  
2 Defendant

- 3 i. pleads guilty pursuant to this agreement;  
4 ii. on or before the date scheduled by the Court; and if  
5 iii the adjusted offense level prior to the application of U.S.S.G.

6 § 3E1.1(a) is sixteen (16) or greater,

7 the government will move the Court for an additional one-level downward adjustment in the  
8 offense level under U.S.S.G. § 3E1.1(b).

9 3. The United States and Defendant stipulate to the following facts and  
10 application of the guidelines:

11 a. Defendant was born in 1984 and is a citizen of the United States. On or  
12 about August 24, 2007, defendant Edward Lee Santos was convicted of a felony offense that  
13 is a crime punishable by imprisonment for a term exceeding one year, as follows: one count  
14 of felony Burglary, in the Superior Court of the Commonwealth of the Northern Mariana  
15 Islands, under Case Number 07-0073T. On or about August 27, 2007, and until on or about  
16 September 4, 2007, Defendant knowingly and willfully possessed and concealed firearms;  
17 that is, a .223 caliber Bushmaster rifle, model XM15-E2S, serial number L297481; and a  
18 .22LR caliber Ruger rifle, model 10/22, serial number 251-59219. At the time when he  
19 possessed and concealed those firearms, Defendant knew that the firearms recently had been  
20 stolen from a residence on Saipan. Further, the above-referenced firearms had been shipped  
21 and transported in interstate commerce from the United States and ultimately to Saipan, prior  
22 to the theft of those firearms.  
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1           b. The applicable section of the guidelines for the offenses to which  
2 Defendant is pleading guilty is § 2K2.1.

3           4. Except as expressly provided in paragraphs two (2) and three (3), above, the  
4 parties have made no agreement concerning the facts, the guidelines, or their application to  
5 this case. Both parties reserve the right to present and argue evidence on all matters affecting  
6 the guidelines calculation.

7           5. The government reserves its full right of allocution, including the right to  
8 present to any information to the Court for its consideration in fashioning an appropriate  
9 sentence, the right to correct misstatements, misrepresentations, or omissions by Defendant,  
10 and the right to answer without limitation any questions asked by the Court.

11           6. Defendant has been advised and understands that if the Court accepts his plea,  
12 he will be adjudged guilty of a felony offense and that such adjudication may deprive him of  
13 certain civil rights or privileges.

14           7. The maximum statutory penalties for the offense in Count 1 of the Indictment  
15 to which Defendant is pleading guilty are as follows:  
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- 17           a. a term of imprisonment of up to ten (10) years;  
18           b. a fine of up to two hundred fifty thousand dollars (\$ 250,000.00);  
19           c. a term of supervised release of not more than three (3) years; and  
20           d. a mandatory special assessment of one hundred dollars (\$100.00).

21           8. The maximum statutory penalties for the offense in Count 2 of the Indictment  
22 to which Defendant is pleading guilty are as follows:

- 23           a. a term of imprisonment of up to ten (10) years;  
24           b. a fine of up to two hundred fifty thousand dollars (\$250,000.00);  
25

1 c. a term of supervised release of not more than three (3) years; and

2 d. a mandatory special assessment of one hundred dollars (\$100.00).

3 9. Defendant agrees to pay the mandatory special assessments no later than the  
4 date of his sentencing with a money order or certified check payable to the Clerk, United  
5 States District Court. Failure to do so, unless the Court makes a finding of indigence, will  
6 relieve the government of its obligation to recommend a reduction in the offense level for an  
7 acceptance of responsibility under the guidelines.

8 10. Defendant understands that the Court must consider the sentencing guidelines  
9 in determining an appropriate sentence in this case but that the guidelines are only advisory  
10 and are not binding on the Court. Defendant also understands that the Court alone makes all  
11 sentencing decisions, including the application of the guidelines and the sentence to be  
12 imposed. The Court, in its discretion, may impose any reasonable sentence up to and  
13 including the maximum penalties set by law after taking into account the factors enumerated  
14 in 18 U.S.C. § 3553(a). Defendant is advised and further understands that, even if the Court's  
15 guideline determinations and sentence are higher than Defendant may expect, Defendant will  
16 not be allowed to withdraw his guilty plea. And Defendant understands that, in the United  
17 States Penal System, there is no parole and if the Court sentences him to jail he will not be  
18 released on parole.  
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20 11. Defendant understands that he may have the right to file a direct appeal from  
21 his conviction or sentence. Defendant knowingly and voluntarily waives any right he may  
22 have to file such an appeal. Defendant also waives any and all motions, defenses, probable  
23 cause determinations, and objections which he could assert to the indictment or to the Court's  
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1 entry of judgment against him and imposition of sentence upon him. Defendant further  
2 waives:

- 3 a. any right to appeal the Court's entry of judgment against him;
- 4 b. any right to appeal the imposition of sentence upon Defendant under  
5 18 U.S.C. § 3742 (sentence appeals); and
- 6 c. any right collaterally to attack Defendant's conviction and sentence  
7 under 28 U.S.C. §§ 2255 and 2241, motions to reconsider or reduce his sentence, or any other  
8 collateral attack.

9 Defendant acknowledges that this waiver shall result in the dismissal of any appeal or  
10 collateral attack that he might file challenging his conviction or sentence in this case. This  
11 waiver, however, does not prevent Defendant from challenging the effectiveness of his  
12 attorney after conviction.

13 12. This agreement does not affect the rights or obligations of the United States as  
14 set forth in 18 U.S.C. § 3742(b), and the government retains its right to appeal any of the  
15 Court's sentencing determinations.

16 13. Defendant has been advised and understands that he has the following rights:

- 17 a. the right to plead not guilty and to persist in that plea;
- 18 b. the right to a jury trial;
- 19 c. the right at trial to be presumed innocent and require the government to  
20 his guilt beyond a reasonable doubt;
- 21 d. the right to be represented by counsel – and, if necessary, have the  
22 Court appoint counsel to represent Defendant – at trial and every other critical stage of the  
23 proceeding;  
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1 e. the right at trial to see and hear all of the witnesses and for his counsel  
2 to cross-examine them in his defense;

3 f. the right at trial to testify and present evidence but only if he  
4 voluntarily elected to do so;

5 g. the right at trial to the issuance of subpoenas or to compel the  
6 attendance of witnesses to testify in his defense; and

7 h. the right at trial, if he decided not to testify or present evidence, not to  
8 have those facts used against him and to be otherwise protected against self-incrimination.

9 Defendant is advised and further understands that, if he pleads guilty and the Court accepts  
10 his plea, he waives all of these rights.

11 14. Defendant has been advised that the offenses to which he is pleading guilty  
12 have separate and distinct elements or parts.

13 a. Count 1 of the Indictment charges Defendant with Felon in Possession  
14 of Firearms. This offense has three (3) elements. Those elements are:

15 i. Defendant knowingly possessed a .223 caliber Bushmaster rifle,  
16 model XM15-E2S, serial number L297481 firearm; and a .22LR caliber Ruger rifle, model  
17 10/22, serial number 251-59219 firearm;

18 ii. At the time when he possessed the .223 caliber Bushmaster  
19 rifle, model XM15-E2S, serial number L297481 firearm and the .22LR caliber Ruger rifle,  
20 model 10/22, serial number 251-59219 firearm, Defendant had been convicted of a crime  
21 punishable by imprisonment for a term exceeding one year; that is, a felony offense: one  
22 count of felony Burglary, on August 24, 2007, in the Superior Court of the Commonwealth of  
23 the Northern Mariana Islands, under Case Number 07-0073T; and  
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1                   iii.     The .223 caliber Bushmaster rifle, model XM15-E2S, serial  
2     number L297481 firearm; and the .22LR caliber Ruger rifle, model 10/22, serial number 251-  
3     59219 firearm had been shipped in interstate commerce at some time before the defendant's  
4     possession of those firearms.

5                   b.     Count 2 of the Indictment charges Defendant with Possession of Stolen  
6     Firearms. This offense has three (3) elements. Those elements are:

7                   i.     Defendant knowingly possessed or concealed stolen firearms;  
8     that is: a .223 caliber Bushmaster rifle, model XM15-E2S, serial number L297481; and a  
9     .22LR caliber Ruger rifle, model 10/22, serial number 251-59219;

10                  ii.    The .223 caliber Bushmaster rifle, model XM15-E2S, serial  
11     number L297481 firearm; and the .22LR caliber Ruger rifle, model 10/22, serial number 251-  
12     59219 firearm had been shipped or transported from one state to another or from a foreign  
13     nation to the United States; and

14                  iii.   Defendant knew or had reasonable cause to believe that the .223  
15     caliber Bushmaster rifle, model XM15-E2S, serial number L297481 firearm; and the .22LR  
16     caliber Ruger rifle, model 10/22, serial number 251-59219 firearm had been stolen.

17     Defendant understands that if the case against him were to go to trial, the government  
18     would have to prove each of these elements beyond a reasonable doubt.

19                  15.    This agreement is binding on the government only if Defendant pleads guilty,  
20     fulfills all of his obligations under the agreement, does not engage in any conduct constituting  
21     obstruction of justice as defined in U.S.S.G. § 3C1.1, and does not commit any new offenses.  
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23                  16.    Defendant understands that if he violates this agreement in any way, the  
24     government will have considered the agreement to have been breached. In that event,  
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1 Defendant shall not have the right to withdraw his plea of guilty. The government, however,  
2 will be released from all obligations and restrictions imposed by the agreement. The  
3 government may, in its sole discretion and without limitation, proceed with any one or more  
4 of the following steps:

- 5 a. go forward with the guilty plea and sentencing;
- 6 b. make any and all sentencing recommendations that it deems  
7 appropriate;
- 8 c. treat the agreement as a nullity, that is, as though the parties had never  
9 entered into it, withdraw the agreement, and go to trial on the Indictment;
- 10 d. pursue additional charges against Defendant; and
- 11 e. use against Defendant, in this and in any other prosecution and  
12 proceeding, any and all information, statements, and testimony – including stipulations made  
13 in this agreement – that he has provided at any time to the government, the grand jury, or to  
14 the Court.

15  
16 17. This agreement is limited to the District of the Northern Mariana Islands. It  
17 does not bind any other federal, state, or local authorities.

18 18. This agreement constitutes the entire agreement between the parties. No other  
19 promises or inducements have been made concerning the plea in this case. Defendant  
20 acknowledges that no person has, directly or indirectly, threatened or coerced Defendant to  
21 enter into this agreement. Any additions, deletions, or modifications to this agreement must  
22 be made in writing and signed by all parties in order to be effective.  
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1           19. Counsel for Defendant states that he has read this agreement, been given a  
2 copy of it for his files, explained it to Defendant, and states that to the best of counsel's  
3 knowledge and belief, Defendant understands the agreement.

4           20. Defendant states that he has read this agreement or had it read to him, has  
5 discussed it with his counsel, understands it, and agrees to its provisions.

6  
7 ESantos  
8 EDWARD LEE SANTOS  
9 Defendant

5/7/08  
Date

10 Loren A. Sutton  
11 LOREN A. SUTTON  
12 Counsel for Defendant

5-7-08  
Date

13 Beverly R. McCallum  
14 BEVERLY R. McCALLUM  
15 Assistant United States Attorney

5-7-08  
Date